

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF LOUISIANA
SHREVEPORT DIVISION

**BRFHH Shreveport, L.L.C. d/b/a
University Health Shreveport and
Vantage Health Plan, Inc.,**

Plaintiffs;

v.

**Willis-Knighton Medical Center
d/b/a Willis-Knighton Health
System,**

Defendant.

Case No. 5:15-cv-02057

Judge Elizabeth E. Foote

Mag. Judge Mark L. Hornsby

**DEFENDANT WILLIS-KNIGHTON MEDICAL CENTER'S
RESPONSE TO AUGUST 8, 2018 MINUTE ENTRY**

Lamar P. Pugh
Attorney Identification No. 20070
PUGH, PUGH, & PUGH, LLP
333 Texas Street, Suite 2100
Shreveport, Louisiana 71101
Telephone: 318-227-2270
Telecopier: 318-227-2273
lamar@thepughlawfirm.com

Lesley C. Reynolds*
Reed Smith LLP
1301 K Street, N.W.
Suit 1000, East Tower
Washington, D.C. 20005
Telephone: 202-414-9200
Telecopier: 202-414-9299
lreynolds@reedsmith.com

*Admitted *pro hac vice*

Layne E. Kruse (T.A.)*
Darryl W. Anderson*
Eliot F. Turner*
NORTON ROSE FULBRIGHT US LLP
1301 McKinney, Suite 5100
Houston, Texas 77010
Telephone: 713-651-5151
Telecopier: 713-651-5246
layne.kruse@nortonrosefulbright.com
darryl.anderson@nortonrosefulbright.com
eliot.turner@nortonrosefulbright.com

Marc B. Collier*
NORTON ROSE FULBRIGHT US LLP
98 San Jacinto Blvd, Suite 1100
Austin, Texas 78701
Telephone: 512-474-5201
Telecopier: 512-536-4598
marc.collier@nortonrosefulbright.com

*Attorneys for Defendant Willis-Knighton Medical Center
d/b/a Willis-Knighton Health System*

On August 7, 2018, Counsel for Willis-Knighton Medical Center (“Willis-Knighton”) sent an email to the Court informing the Court that based on the Court’s prior rulings, Willis-Knighton was withdrawing one its arguments in its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. No. 425). Specifically, counsel for Willis-Knighton informed the Court that Willis-Knighton was withdrawing its argument that Professor Kessler’s opinions about a “broader” scheme to transfer commercially-insured business to Willis-Knighton are unreliable because they are unsupported by the facts. The argument can be found on pages 15-18 in Section I.C of Willis-Knighton’s Memorandum of Law in Support of its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. 425-1, pp. 21-24 of 29) and on pages 4-5 in Section II of Willis-Knighton’s Reply in Further Support of its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. 473, pp. 7-8 of 15).

On August 8, 2018, the Court requested Willis-Knighton to clarify the specific objections it intends to continue to pursue with respect to Professor Kessler. Willis-Knighton intends to pursue all of its remaining arguments as to why Professor Kessler’s opinions should be excluded. These arguments and the locations of these arguments in Willis-Knighton’s briefing are listed below.

- Willis-Knighton will continue to pursue its argument that Professor Kessler’s opinions about the anticompetitive impacts of the arrangement between LSU-Shreveport and Willis-Knighton are unreliable because they are based on academic literature that does not fit the facts of this case. This argument can be found on pages 4-12 in Section I.A of Willis-Knighton’s Memorandum

of Law in Support of its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. 425-1, pp. 10-18 of 29) and on pages 5-8 in Section III of Willis-Knighton's Reply in Further Support of its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. 473, pp. 8-11 of 15).

- Willis-Knighton will continue to pursue its argument that Professor Kessler's opinions about the anticompetitive impacts of the arrangement between LSU-Shreveport and Willis-Knighton are unreliable because they are contrary to the academic literature in concluding that the impacts he identified are "significantly likely." This argument can be found on pages 12-15 in Section I.B of Willis-Knighton's Memorandum of Law in Support of its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. 425-1, pp. 18-21 of 29) and on pages 8-10 in Section IV of Willis-Knighton's Reply in Further Support of its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. 473, pp. 11-13 of 15).
- Willis-Knighton will continue to pursue its argument that Professor Kessler's opinions about the anticompetitive impacts of "past acquisitions" of non-LSU-Shreveport physicians by Willis-Knighton are unreliable and irrelevant. This argument can be found on pages 18-21 in Section II of Willis-Knighton's Memorandum of Law in Support of its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. 425-1, pp. 24-24 of 29) and on pages 2-4 in Section I of Willis-Knighton's Reply in Further Support of its Motion to Exclude Expert Testimony of Daniel P. Kessler (Dkt. 473, pp. 5-7 of 15).

If the Court has any further questions about the arguments that Willis-Knighton intends to pursue related to Professor Kessler's opinions, Willis-Knighton would be happy to address them.

Dated: August 8, 2018

Respectfully submitted,

Layne E. Kruse (T.A.)*
Darryl W. Anderson*
Eliot F. Turner*
Norton Rose Fulbright US LLP
1301 McKinney, Suite 5100
Houston, Texas 77010
Telephone: 713-651-5151
Telecopier: 713-651-5246
layne.kruse@nortonrosefulbright.com
darryl.anderson@nortonrosefulbright.com
eliot.turner@nortonrosefulbright.com

/s/ Lamar P. Pugh
Lamar P. Pugh
Attorney Identification No. 20070
Pugh, Pugh & Pugh L.L.P.
333 Texas Street, Suite 2100
Shreveport, Louisiana 71101
Telephone: 318-227-2270
Telecopier: 318-227-2273
lamar@thepughlawfirm.com

Lesley C. Reynolds*
Reed Smith LLP
1301 K Street, N.W.
Suit 1000, East Tower
Washington, D.C. 20005
Telephone: 202-414-9200
Telecopier: 202-414-9299
lreynolds@reedsmith.com

Marc B. Collier*
Norton Rose Fulbright US LLP
98 San Jacinto Blvd, Suite 1100
Austin, Texas 78701
Telephone: 512-474-5201
Telecopier: 512-536-4598
marc.collier@nortonrosefulbright.com

*Admitted *pro hac vice*

*Attorneys for Defendant Willis-Knighton Medical Center
d/b/a Willis-Knighton Health System*

CERTIFICATE OF SERVICE

I certify that on August 8, 2018 a copy of this document was filed using the Court's CM/ECF system. Copies of the same have been served by electronic means through the CM/ECF system on all counsel for the Plaintiffs who have appeared in this case.

/s/ Lamar P. Pugh
Lamar P. Pugh